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| HEWLETT PACKARD COMPANY<br>P O BOX 272400, 3404 E. HARMONY ROAD<br>INTELLECTUAL PROPERTY ADMINISTRATION<br>FORT COLLINS, CO 80527-2400 |             |                      | EXAMINER<br>CHERY, MARDOCHEE |                        |
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application Number: 10/628,918  
Filing Date: July 29, 2003  
Appellant(s): GRAGG, BRIAN D.

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**Technology Center 2100**

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Peter Kraguljac  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed August 7, 2007 appealing from the Office action mailed April 12, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

|              |           |      |
|--------------|-----------|------|
| 2004/0006616 | Quinn     | 2003 |
| 2003/0233544 | Erlington | 2002 |
| 20030063305  | McIntyre  | 2001 |

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claims 11-19 are rejected under 35 USC 101 as being non-statutory.

The claimed invention is directed to non-statutory subject matter. Claims 11-19 recites the limitation "computer-readable medium". However, it is to be noted that on page 2 of the specification, a computer-readable medium is defined to include transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link, cables, wires, electromagnetic radiation, radio-wave, infrared, carrier wave/pulse which are non-statutory subject matter. Computer readable

medium includes carrier wave/pulse, signals, electromagnetic radiation, radio-wave, and infrared communication. Hence claims 11-19 are rejected as being directed to non-statutory subject matter.

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §.101.

First, a claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material.

The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." Coming v. Burden, 56 U.S.

(15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices which perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

A "composition of matter" "covers all compositions of two or more substances and includes all composite articles, whether they be results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids." *Shell Development Co. v. Watson*, 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), *affd*, 252 F.2d 861, 116 USPQ 428 (D.C. Cir.1958). A claimed signal is not matter, but a form of energy, and therefore is not a composition of matter.

The Supreme Court has read the term "manufacture" in accordance with its dictionary definition to mean "the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." *Diamond v. Chakrabady*, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting *American Fruit Growers, Inc. v. Brogdex Co.*, 283 U.S. 1, 11, 8 USPQ 131, 133 (1931), which, in turn, quotes the Century Dictionary). Other courts have applied

similar definitions. See *American Disappearing Bed Co. v. Arnaelsteen*, 182 F. 324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911). These definitions require physical substance, which a claimed signal does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change. *Lorillard v. Pons*, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in *American Fruit Growers* when it passed the 1952 Patent Act.

A manufacture is also defined as the residual class of product. 1 Chisum, § 1.0213] (citing W. Robinson, *The Law of Patents for Useful Inventions* 270 (1890)).

A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.

The claimed invention is directed to non-statutory subject matter. Claims 11-19 are rejected under 35 USC 101 as being non-statutory. The claimed invention is directed to non-statutory subject matter. Claims 11-19 recite the

limitation "an article of manufacture embodied in a computer-readable medium".

However, it is to be noted that, an article of manufacture embodied in a computer-readable medium, to one of ordinary skill in the art, includes transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link, which is non-statutory subject matter. An article of manufacture embodied in a computer-readable medium is rejected as being non-statutory and does not fall within any of the statutory category of invention, namely, a machine, a process, an article of manufacture, and composition of matter. See

<http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre (2003/0063305) in view of Quinn (2004/0006616).

As per claim 1, McIntyre discloses an image forming device comprising: a storage device for storing data [Fig. 1; ¶ 22]; and a storage access manager configured to coordinate access to the storage device from a plurality of client devices [¶ 23].



However, McIntyre does not explicitly client devices that communicate with the storage device using at least one uncoordinating communication protocol as required.

Quinn discloses client devices that communicate with the storage device using at least one uncoordinating communication protocol [*clients may use different message types/formats and communication protocols to communicate requests to command servers 208; par. 47; See also claim text 3] to provide improved techniques for managing storage environments [par. 7].*

Since the technology for implementing a storage system with client devices that communicate with the storage device using at least one uncoordinating communication protocol was well known as evidenced by Quinn, an artisan would have been motivated to implement this feature in the system of McIntyre to provide improved techniques for managing storage environments. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention by Applicants to modify the system of McIntyre to include client devices that communicate with the storage device using at least one uncoordinating communication protocol since this would have provided improved techniques in managing storage environment (par. 7) as taught by Quinn.

As per claims 2 and 3, McIntyre discloses the sector-level communication protocol includes a universal serial bus protocol and the file-level communication protocol includes a common internet file system protocol [par. 23].

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As per claim 4, McIntyre discloses the storage access manager further includes a contention matrix configured to determine contention states for accessing the storage for accessing the storage device [¶ 33].

As per claim 4, Quinn also discloses the storage access manager further includes a contention matrix configured to determine contention states for accessing the storage for accessing the storage device [¶ 52].

As per claim 5, McIntyre discloses a universal serial bus communication port for communicating to the storage device and, a network communication port for communicating to the storage device [¶ 23].

As per claim 6, McIntyre discloses a plurality of universal serial bus communication ports configured to provide access to the storage device [¶ 23].

As per claim 7, McIntyre discloses the storage device includes logic to notify a client device whether an access request for the storage device is permissible [¶¶ 22 and 33].

As per claim 7, Quinn also discloses the storage device includes logic to notify a client device whether an access request for the storage device is permissible [¶ 52].

As per claim 8, McIntyre discloses the storage access manager is embodied as logic [¶ 33].

As per claim 9, McIntyre discloses the storage device is one or more memory cards [¶ 33].

As per claim 10, McIntyre discloses the storage access manager includes storage access manager means to coordinate the access to the storage device [¶ 34].

As per claim 11, McIntyre further discloses an article of manufacture embodied in a computer-readable medium for use in an image forming device having a storage device accessible by at least a first communication protocol and a second communication protocol, the article of manufacture comprising first processor executable instructions for causing a processor to maintain a current access state for the storage device [¶¶ 22 and 23]; and third processor executable instructions for causing a processor to determine whether the received access request is permissible based on the contention status [¶ 33].

However, McIntyre does not explicitly teach second processor executable instructions for causing a processor to determine a contention status between the

current access state and a received access request for accessing the storage device based on a contention logic, the contention logic defining rights for simultaneous access to the storage device from the at least first communication protocol and the second communication protocol as required.

Quinn, in addition to disclosing an article of manufacture embodied in a computer-readable medium for use in an image forming device having a storage device accessible by at least a first communication protocol and a second communication protocol [par. 9]; and third processor executable instructions for causing a processor to determine whether the received access request is permissible based on the contention status [¶ 69]; also discloses a second processor executable instructions for causing a processor to determine a contention status between the current access state and a received access request for accessing the storage device based on a contention logic, the contention logic defining rights for simultaneous access to the storage device from the at least first communication protocol and the second communication protocol [par. 52, 63] to allow exclusive access or locking to the storage device (par. 52).

Since the technology for implementing a storage device with instructions to determine a contention status between the current access state and a received access request for accessing the storage device based on a contention logic was well known as evidenced by Quinn, an artisan would have been motivated to implement this feature in the system of McIntyre in order to allow exclusive access or locking to the storage

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device. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to modify the system of McIntyre to include instructions to determine a contention status between the current access state and a received access request for accessing the storage device based on a contention logic because this would have allowed exclusive access or locking to the storage device (par. 52) as taught by Quinn.

As per claim 12, McIntyre discloses the contention logic is configured to coordinate simultaneous access to the storage device by one or more clients using the first communication protocol and one or more clients using the second communication protocol [¶¶ 22-23].

As per claim 13, the rationale in the rejection of claims 4 and 7 is herein incorporated.

As per claim 14, McIntyre discloses the contention logic is configured based on the first communication protocol being a sector-level protocol and the second communication protocol being a file-level protocol [¶¶ 5, 22 and 26].

As per claim 15, McIntyre discloses at least a first communication protocol and the second communication protocol include at least one uncoordinating communication protocol [¶ 23].

As per claim 15, Quinn also discloses at least a first communication protocol and the second communication protocol, include at least one uncoordinating communication protocol [par. 47; See also claim text 3].

As per claim 16, McIntyre discloses fourth processor executable instructions for causing a processor to notify a first client when access to the storage device occurs by a second client [¶¶ 22-23].

As per claim 16, Quinn also discloses fourth processor executable instructions for causing a processor to notify a first client when access to the storage device occurs by a second client [¶ 69].

As per claim 17, McIntyre discloses the at least first and the second communication protocols include the same protocol [¶¶ 23].

As per claim 18, McIntyre discloses fifth processor executable instructions for causing a processor to assign an identifier to each client requesting access to the storage device [¶ 27].

As per claim 18, Quinn also discloses fifth processor executable instructions for causing a processor to assign an identifier to each client requesting access to the storage device [¶ 69].

As per claim 19, McIntyre discloses the second processor executable instructions include storage access manager means for controlling access to the storage device [¶¶ 22 and 33].

As per claim 20, the rationale in the rejection of claims 1, 4, and 11 is herein incorporated.

As per claim 21, the rationale in the rejection of claim 4 is herein incorporated.

As per claim 22, the rationale in the rejection of claim 3 is herein incorporated.

As per claims 23 and 25, the rationale in the rejection of claim 7 is herein incorporated.

As per claim 24, the rationale in the rejection of claim 18 is herein incorporated.

As per claim 26, the rationale in the rejection of claim 15 is herein incorporated.

As per claim 27, the rationale in the rejection of claim 17 is herein incorporated.

Claims 4, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre (2003/0063305) in view of Quinn (2004/0006616) as applied to claims 1, 11 and 20 above, and further in view of Erlington (2003/0233544).

As per claim 4, McIntyre and Quinn disclose the claimed invention as discussed above in the previous paragraphs. However, McIntyre and Quinn do not explicitly teach the storage access manager further includes a contention matrix configured to determine contention states for accessing the storage for accessing the storage device as required by the claim.

Erlington discloses the storage access manager further includes a contention matrix configured to determine contention states for accessing the storage for accessing the storage device [Figs. 4, 5 and 7; par. 26-27, 76] to allow multiple concurrent users devices to simultaneously access the computer systems (par. 3).

Since the technology for implementing a storage system with a contention matrix to determine contention states for accessing a storage device was well known as evidenced by Erlington, an artisan would have been motivated to implement this feature in the system of McIntyre and Quinn in order to allow multiple concurrent users devices



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to simultaneously access the computer systems. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to modify the system of McIntyre and Quinn to include a contention matrix to determine contention states for accessing a storage device because this would have allowed multiple concurrent users devices to simultaneously access the computer systems (par. 3) as taught by Erlington.

As per claim 13, the rationale in the rejection of claims 4 and 7 is herein incorporated.

As per claim 21, the rationale in the rejection of claim 4 is herein incorporated.

#### **(10) Response to Argument**

Appellant's arguments on pages 10-11 that claim 11 is directed to and expressly recites "an article of manufacture" and therefore recites statutory subject matter under 35 USC 101 is clearly erroneous.

Examiner strongly disagrees in view of the following: First of all, Examiner never used the terms "the article of manufacture" used in the claim as basis for the rejection of the claims as being non-statutory under 35 USC 101. Rather, it is the claimed "computer-readable medium" which, according the specification, render claims 11-19 non-statutory as set forth in the following: The claimed invention is directed to non-statutory subject matter. Claims 11-19 recite the

limitation "computer-readable medium". However, it is to be noted that on page 2 of the specification, a computer-readable medium is defined to include transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link, cables, wires, electromagnetic radiation, radio-wave, infrared, carrier wave/pulse which are non-statutory subject matter. Computer readable medium includes carrier wave/pulse, signals, electromagnetic radiation, radio-wave, and infrared communication. Hence claims 11-19 are rejected as being directed to non-statutory subject matter.

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

First, a claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum,

Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material.

The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." *Coming v. Burden*, 56 U.S. (15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices which perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

A "composition of matter" "covers all compositions of two or more substances and includes all composite articles, whether they be results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids." *Shell Development Co. v. Watson*, 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), *affd*, 252 F.2d 861, 116 USPQ 428 (D.C. Cir.1958). A claimed signal is not matter, but a form of energy, and therefore is not a composition of matter.

The Supreme Court has read the term "manufacture" in accordance with its dictionary definition to mean "the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." *Diamond v. Chakrabady*, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting *American Fruit Growers, Inc. v. Brogdex Co.*, 283 U.S. 1, 11, 8 USPQ 131,133 1931), which, in turn, quotes the Century Dictionary). Other courts have applied similar definitions. See *American Disappearing Bed Co. v. Arnaelsteen*, 182 F. 324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911 ). These definitions require physical substance, which a claimed signal does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change. *Lorillard v. Pons*, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in *American Fruit Growers* when it passed the 1952 Patent Act.

A manufacture is also defined as the residual class of product. 1 Chisum, § 1.0213] (citing W. Robinson, *The Law of Patents for Useful Inventions* 270 (1890)).

A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and

composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.

See <http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>

Appellant's arguments on pages 12-15 that McIntyre and Quinn fail to teach or suggest "a storage access manager configured to coordinate access to the storage device from a plurality of client devices that communicate with a storing device using at least one uncoordinating communication protocol", recited in claim 1, is clearly erroneous.

Examiner would to first point out that appellant once again falls victim of the "*ipsissimis verbis*" test. Throughout prosecution, appellant has been simply looking to identify key terms or phrases recited in the claims, such as "uncoordinating communication protocols", in the cited art. Though the prior art must disclose the claimed invention in as complete detail as is contained in the claim, this is not however an "*ipsissimis verbis*" test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). The prior art may not use similar terms as applicants' claimed invention. It suffices that the prior art discloses the claimed subject matter at least in the manner recited in applicants' specification. Throughout prosecution, appellant has been

simply looking to identify key terms or phrases recited in the claims, such as “uncoordinating communication protocols”, in the cited art.

Page 4, paragraph [0016] of the specification defines “uncoordinating communication protocols” as follows: “As used herein, uncoordinating communication protocols include protocols from different devices that may compete for access to the storage device 105 where at least one protocol does not provide notice of the access to the other protocol or device”. McIntyre unequivocally discloses “a number of computing devices or client devices such as stand-alone computers, palm-computers, laptop computers, having access to data storage, printers, and a printer control program, and capable of communicating, sending, or receiving data over a network using several communication protocols [pars. 0022-0023], where it is readily apparent that the computing devices or client devices of McIntyre may compete for access to the data storage device and at least one protocol or device does not provide notice of the access to the other protocol or device as described in appellant’s specification”.

Quinn further undeniably discloses “clients may use different message types/formats and communication protocols to communicate requests between clients and servers; par. 0047” where once again any one of ordinary skill in the art would have appreciated that the clients, in the system of Quinn, using different message types/formats and communication protocols to communicate requests between clients and servers, may compete for access to a data storage

device where at least one protocol or device does not provide notice of the access to the other protocol or device, which efficiently satisfy the requirement of “uncoordinating communications protocol”.

Thus, it is manifest that McIntyre expressly discloses “storage access manager configured to coordinate access to a storage device from a plurality of client devices; pars. [0022-0023]”, and that Quinn discloses “client devices communicating with the storage device using at least one uncoordinating communication protocol”, verbatim in par. [0047]. As a result, the claimed invention is not patentably distinct over the cited art of record.

Appellant’s arguments on pages 15-17 that McIntyre and Quinn fail to teach or suggest “second processor executable instructions for causing a processor to determine a contention status between the current access state and a received access request for accessing the storage device based on a contention logic, the contention logic defining rights for simultaneous access to the storage device from the at least first communication and the second communication protocol where the at least first communication does not provide notice of an access to the second communication protocol, and third processor executable instructions for causing a processor to determine whether the received access request is permissible based on the contention status” are clearly erroneous.

Examiner totally disagrees. Quinn clearly discloses "each agent is configured to perform a specific set of operations; one agent is configured to perform operations related to adding a volume to a storage array which may include gaining exclusive access to (or locking) the storage array, getting the latest data configuration of the storage array, adding a volume to the storage array, verifying that the volume was properly added, releasing the lock on the storage array; the AddVolume agent determines the various operations corresponding to the requested command; AddVolume agent determines that the command to add a volume comprises gaining exclusive access to (or locking) the storage array ...and releasing the lock on the storage array; pars. 0052, 0063, 0069". As shown above, gaining exclusive access or locking the storage array intrinsically results from a simultaneous access conflict between a requesting (or pending) agent and the agent currently accessing the storage array, and exclusive access or a lock necessitates conflict access between the requesting agent and agent currently accessing the storage array thereby determining the access status. Needless to say that one of ordinary skill in the art would have also recognized and appreciated the use of contention logic in a system where agents are enable to gain exclusive access or place a lock on a storage array.



Appellant's arguments on pages 16-17 that "the motivation to combine Quinn with McIntyre is based on hindsight reasoning" are clearly erroneous.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Appellant's arguments on pages 18-19 regarding claim 20 parallel those presented on pages 15-17 with respect to claim 11. Accordingly, claim 20 is addressed at least in the manner that claim 11 was as shown in the previous paragraphs.

Finally, it is worth mentioning that throughout prosecution that appellant has ignored the well known practice of claim interpretation, let alone broadest reasonable interpretation, often arguing claimed limitations more narrow than the claim language itself or the specification allows. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989);

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*Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004).

In view of the foregoing, it has been clearly shown that the claimed invention is not patentably distinct over the cited art of record. Furthermore, as shown above, McIntyre and Quinn teach all the features of independent claims 1, 11, and 20 as broad as the claims allow. Therefore, the rejection of claims 1-27 should be sustained.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Mardochee Chery  
Examiner


Conferees:

Hyung Sough

Supervisory Patent Examiner

  
HYUNG SOUGH  
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